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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.       |
|--|-------------|----------------------|---------------------|------------------------|
| 09/920,728   | 08/03/2001  | Robert James Tribe   | 0100/0131           | 5066                   |
| 21395  | 7590        | 07/24/2006           | EXAMINER            |                        |
| LOUIS WOO<br>LAW OFFICE OF LOUIS WOO<br>717 NORTH FAYETTE STREET<br>ALEXANDRIA, VA 22314 |             |                      |                     | RODRIGUEZ, CRIS LOIREN |
|  |             | ART UNIT             |                     | PAPER NUMBER           |
|  |             |                      |                     | 3763                   |

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                   |              |
|------------------------------|-------------------|--------------|
| <b>Office Action Summary</b> | Application No.   | Applicant(s) |
|                              | 09/920,728        | TRIBE ET AL. |
|                              | Examiner          | Art Unit     |
|                              | Cris L. Rodriguez | 3763         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 6/1/06.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4,5 and 7-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,5,7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 5, and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Ford (GB 2 352 637 A).

Ford discloses a syringe pump having a drive mechanism 7, an occlusion detector including a force sensor that directly senses the force exerted on the plunger in response to an occlusion. Ford's pump is operable in response to a detected occlusion to reverse the drive applied to move the plunger along the barrel sufficiently until the force detected by the force sensor falls by a predetermined amount.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ford.

Ford discloses the invention substantially as claimed. Ford discloses that upon occlusion detection by the sensor, the pump rewinds by some predetermined amount following an occlusion alarm (incremental drive system rewind). However, Moberg fails to specifically disclose the pump being arranged to reverse the drive until force detected by the force sensor is substantially 10% of the force at which an occlusion is detected, and the force applied to drive the plunger is changed to reduce the detected force to substantially 10% of the predetermined value. This predetermined value is deemed matter of design choice, well within the skill of the ordinary artisan, obtained through routine experimentation in determining optimum results.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ford in view of Moberg (US 6,362,591).

Ford discloses the invention substantially as claimed except for the pump generating an alarm when force of the plunger exceeds a predetermined value when there is an occlusion.

Moberg teaches that it is known to have an alarm in syringe pumps when force of the plunger exceeds a predetermined value when there is an occlusion. Given the teachings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ford' syringe pump by including an alarm in its syringe pump for indicating occlusions due to exceeding predetermined values, since Moberg suggests that such modification would provide an audible indication to the user for occlusions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is 571-272-4964. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 17, 2006

  
Cris L. Rodriguez  
Primary Examiner  
Art Unit 3763